

Holme Roberts & Owen LLP

November 8, 2000



James D. Freeman
 Trial Attorney
 United States Department of Justice
 Environment and Natural Resources Division
 999 18th Street, Suite 945-NT
 Denver, CO 80202

Re: Your October 26, 2000 Letter

Dear Jim:

On behalf of W.R. Grace & Co. - Conn. ("Grace") and Kootenai Development Corporation ("KDC") I am writing in response to your October 26 letter.

Last week URS submitted a work plan to EPA for removal action at the Bluffs and Kootenai Flyway properties owned by KDC. Your letter in response is difficult to understand. First it criticizes Grace for moving too slowly, then forbids either Grace or KDC from taking any cleanup actions on KDC's property. You cannot have it both ways. If the government is serious about expediting cleanup at the KDC properties it is simply absurd for you to forbid KDC and Grace from doing that very thing.

The government's ambivalence towards meaningful cleanup efforts is not new. As early as April of this year Grace submitted a work plan and expressed its willingness to commence response actions immediately in Libby, but was rebuffed by EPA in a manner reminiscent of your recent letter. While I do not intend to rehash the prior cleanup negotiations between the parties, suffice it to say that Grace disagrees with your characterization of those discussions.

Contrary to the assertions in your letter, KDC has provided EPA with access to the KDC properties to perform investigations and other activities necessary for EPA to determine the need for cleanup activities with respect to the Bluffs and the Kootenai Flyway. To date, however, EPA has not provided KDC or Grace with *any* plans or proposals for EPA's cleanup of those properties. I therefore noted with great interest your letter's mention of EPA's "planned response actions" for these properties. Since June of this year, Grace and KDC's representatives have repeatedly requested copies of any such EPA "plans." These requests have either been denied or ignored until about two weeks ago, when Jim Stout was allowed to make copies of an incomplete work plan for

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EPA's activities at the former Screening Plant. That plan, however, pertains solely to the Parker property and makes absolutely no mention of the KDC properties or of any "planned" activities related to them. On behalf of KDC, I reiterate the request most recently made in my October 19 letter for a *complete* copy of EPA's work plan for the former Screening Plant and for copies of any other plans EPA may have to address impacted soils at the Kootenai Flyway and Bluffs properties owned by KDC.

The concerns expressed in the last paragraph of your letter have no basis and do not require an administrative order to address. Grace has solicited comments from EPA on the URS work plan and is ready to begin implementation of the work plan immediately. As evident by the work plan itself, Grace has every intention of keeping to the schedules and other parameters set forth therein and has no intention of exacerbating site conditions or creating any harmful exposure risks in conducting the cleanup. In fact, the health and safety plan is substantially identical to that which EPA has already approved with respect to the ongoing cleanup at the Export Plan. Furthermore, Jim Stout has already communicated with Paul Peronard of EPA Grace's and KDC's willingness to permit EPA to oversee the implementation of the URS work plan on the KDC properties. Your threatened judicial and administrative actions suffer from a lack of legal and factual bases and can serve no constructive purpose.

Grace and KDC look forward to receiving EPA's comments on the URS work plan and hope to commence work as soon as possible. If you believe a meeting of the parties will help expedite this process, please contact me to make the necessary arrangements.

Sincerely,



Jay McCarthy